

GCSE

Law

General Certificate of Secondary Education **J485**

OCR Report to Centres June 2016

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This report on the examination provides information on the performance of candidates which it is hoped will be useful to teachers in their preparation of candidates for future examinations. It is intended to be constructive and informative and to promote better understanding of the specification content, of the operation of the scheme of assessment and of the application of assessment criteria.

Reports should be read in conjunction with the published question papers and mark schemes for the examination.

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B141 The nature of law. Criminal courts and Criminal processes

General Comments:

This paper contributes 25% of the marks towards the full four unit GCSE Law course. The paper remained true to the format used in the specimen and past papers while continuing to explore other areas within major topics. The 2016 paper continued to allow differentiation to stretch more able candidates while still allowing lower ability candidates to gain marks. The paper continued the strong blend of straight-forward questions (generally AO1: identify) requiring simple answers, alongside those requiring high standards of specific subject knowledge and the ability to evaluate and discuss (generally AO2 and AO3).

The main differentiator of ability was again seen in the short and longer comprehension type questions worth 3 and 6 marks respectively. Indeed, for some of the topics tested on the 2016 paper, the AO2 and AO3 type responses continue to require some reflection and practice by centres. Those candidates scoring high marks typically were able to answer each question in a fluid style and stick to the question's command: explain, discuss etc. Again, as is customary to state in this report, candidates are reminded and it is stressed that: firstly they must answer the question set, and secondly, to note the mark value of each comprehension-type question. For example, a response that is marked out of 3 requires three separate points of issue. Candidates would again benefit from the P.E.E method of answering questions in, for example in this series, questions 1(b), 2(c)(ii) and 2(d) etc.

This series the main questions which separated the ability of candidates were mainly: Questions 2(d), 3(b)(ii), 4(b) and 4(c).

Comments on individual questions:

Question 1

This was a traditional two-part question that centred this series on the 'introduction to law' part of the unit. Here the topics of identifying three different types of law and a more general question asking why, in a civilised society, we need laws were assessed. Most candidates were able to score 2 or full marks on question 1(a) and it was rare to see candidate's scoring 0 marks or providing no response at all. Credit was not given for a response of 'the criminal law' since this was the example in the stem of the question; although, obviously, public law would be credited as an alternative. Indeed, a candidate who gave the responses of civil law and (for example) contract law would be awarded separate marks.

Question 1(b) was well answered by candidates with nearly all of them achieving 2 or full marks. Those that achieved 2 marks generally ignored any developmental point or possible example. If candidates used the stem 'to maintain law and order', or something similar, they wouldn't be credited, however, they could receive 2 marks if it was explained and developed.

Question 2

This question centred on sources of law, in particular, precedent from the perspective of the Court of Appeal and the Supreme Court as well as a 3 mark question on European law.

Most candidates were able to achieve two or more marks for Question 2(a). A small minority of candidates were able to answer 'by mistake' but were unable to identify the other two exceptions to the Court being bound by its own previous decisions.

Question 2(b) was, given its precedent lead from question 2(a), generally, well answered. Most candidates achieved either 2 or 3 marks. Where full marks were not achieved, the majority of such candidates would state, incorrectly, their final answer as 'strict'.

Question 2(c)(i) required candidates to give three reasons why in 1966 the then Lord Chancellor issued a Practice Statement allowing the House of Lords to avoid its own previous decisions. While the reasons were numerous and inspiration could have been drawn from 2(a), a minority of candidates were unable to respond accurately at all. With a question like this it is recommended to candidates that rather than leave a no response that some logical and lateral thinking could lead them to a potentially correct answer. Clearly some understanding of the Practice Statement would be of great advantage. In Question 2(c)(ii) those candidates who scored highly were able to explain the two types of precedent following the P.E.E method identified above.

Question 2(d) produced some very mixed responses. European law questions have traditionally proved unpopular with candidates. Therefore, a question based on the European Court of Justice proved to be more accessible to candidates given its high profile in the hierarchy of the courts. Many candidates were able to discuss their thoughts on why this Court is important and were able to give some excellent development points, including, and at the time topically, the United Kingdom leaving the European Union.

Question 3

For question 3(a) candidates commonly would score full marks.

Question 3(b)(i) provided a broad range of marks and again P.E.E could be used to structure a singular response or candidates were able to use a combination of separate points. Given the vast material available on this area many candidates were able to score full marks on this question. Most candidates were able to develop a good discussion giving, in many cases, much more information than was required spilling over the line allocation in the answer booklet. It must be noted that the number of lines for the question in the answer booklet dictates how long a response should be. Such amounts of information demonstrated how comfortable candidates were with the subject matter. However, a small minority of candidates answered this question from the public's point of view during an arrest rather than as the question asks – how the police use their powers under stop and search. This therefore hampered their response to 3(b)(ii).

In Question 3(d) the majority of candidates were able to identify at least two, generally three reasons why the searches were potentially unlawful. Many candidates then went on to develop each of their reasons. A small minority however, having identified two or three reasons, failed to explain them preventing them achieving further marks. Again the mark allocation for this question dictated the structure and order of the answer.

Question 4

The responses to Question 4(a)(i) regularly scored 2 or full marks. This therefore suggested that the majority of candidates knew the subject matter well. The most common incorrect response was as to whether in Pablo's case a judge would use punishment as their main purpose in response to the crime he had committed. The correct answer would be that a judge would not. Question 4(a)(ii) provided surprisingly mixed results given the familiarity of such terms and tested regularly in previous series. Many candidates were able to correctly define two or three of the aims or purposes of sentencing. However, a small number simply rephrased the aim/purpose. For example: 'rehabilitation is where someone is rehabilitated' or something similar and would receive 0 marks for such a response.

Question 4(b) provided some difficulty for many candidates. It was clear that such candidates were either unaware of this topic or misread the question. While this may be a minor role, civil matters are an important part of the magistrates' workload. Those candidates who have the opportunity of visiting a magistrates' court as part of their course would see this.

Question 4(c) gave candidates an opportunity to explain simply and effectively for two reasons why a member of the public could ask to be excused from jury service. This question demonstrated that this is an area that candidates were clearly familiar with. The most commonly discussed were, unsurprisingly, teachers and students taking exams, but responses covered a wide range and accurate reasons for excusal. Indeed, some candidates perhaps thinking ‘on their feet’ came up with some unusual but perfectly plausible responses. Again the P.E.E system was utilised by many candidates who scored full marks.

Question 4(d) was generally well answered. Most candidates were not thrown due to the specific nature of the question: jury selection ‘before the trial date’. If candidates did answer incorrectly it was by including responses covering selection on the trial date itself. Again, as stated above it is crucial that candidates read every question at least twice to confirm what the question is asking.

B142 Civil courts and civil processes. Civil liberties and human rights

General Comments:

This paper contributes 25% of the marks towards the full four unit GCSE course. This paper contained a number of straightforward questions requiring candidates to demonstrate their knowledge combined with more challenging AO2 and AO3 questions which generally test the application of knowledge and the candidates' analytical skills.

It is worth noting that this year it seemed apparent that for many candidates it looked like it was the first time that they have had to attempt such responses to certain types of questions and certain topics. Practicing exam questions is something that centres and candidates are reminded about in Reports to Centres and must be achieved in class on a regular basis.

This unit is divided into six parts: Civil Courts, Tribunals and ADR, the Legal Profession, Judges, Basic Freedoms and Human Rights. While this is a substantial number of topics, those candidates who had a broad, but sound, understanding of the basics of these topics, in particular of the track system and of Basic Freedoms/Rights did well on this paper. The paper included questions that required the candidates to apply their knowledge to factual scenarios. Here, good responses showed a sound understanding of the track system and, for question 12, being able to contextualise a specific topic, here suicide, with our Human Rights enabled candidates to achieve high marks.

The extended answer question 12 acted as one of the main differentiators. Those candidate responses that scored well tended to adopt a P.E.E format approach to their answer in terms of making a point, explaining it and then developing it. As regards this question many candidates showed good understanding of the relevant Rights and successfully identified all or a combination of Articles 2, 3, 8 and 9 as being the most relevant. Again, this year, there were some outstanding responses that fluently related these to the question's context.

Incorrect reading of questions was very apparent on this paper. See comments below for questions 1, 3 and more so for 4. It is always recommended that candidates read and reread not just the question before they answer, but to also read and reread any response they write.

Comments on , individual questions:

Question 1

Most candidates scored well on this question with many scoring full marks. However, there was some confusion about answers 3 and 4 where candidates would often mix 'small claims court' and 'county court'. A reflective look by candidates at what they had written would have probably resolved their mistake.

Question 2

The identification of the most appropriate court and providing a reason of why it was appropriate was generally done well. Given the range of five choices many candidates did very well by recognising the relevant court and in most cases were able to explain the reason why it was relevant in the context of the scenario - generally a financial constraint. Here knowledge of the courts' financial limits was crucial in order to secure two marks in three of the four scenarios. While guesses were possible for the first mark, guessing the financial limits was not so straightforward.

For Question 2(a) candidates were allowed two potential responses given the changes in April 2013: either Fast Track or Small Claims (post April 2013). This allowed any candidates who may have been unaware and perhaps were using an older textbook, not to be penalised. It must be explained to centres that while OCR operates a 'year and a day' rule for changes to law and for candidates to reflect such, OCR GCSE law will always give benefit to candidates who may be using an older relevant textbook which does not reflect recent changes to the law.

For 2(b) the majority of candidates were able to successfully identify the Fast Track which remained unaffected by the changes in 2013 since this related to personal injury claims. Some candidates saw incorrectly that the value of £3000 as being in Small Claim financial territory.

For 2(c) this provided mixed results. Many candidates were able to identify the reason (a defamatory comment) but struggled to select the correct court. This is not unusual and can be a tricky area of law to learn. Again, previous exam questions and practice scenarios in class will provide candidates with a wealth of understanding for exams.

For 2(d) a pre-2013 response was again allowed along with the post-2013 answer. The B142 mark scheme provides further information and guidance for this and the other questions in relation to financial limits.

Question 3

This question looked at ADR in a narrower focus than is usual. In consequence, and perhaps because of the format or the unfamiliarity of the descriptions used, this seemed to confuse a small minority of candidates. It seemed the justifiable similarity in the correct responses of 3 and 1, or the candidates' failure to reflect upon their response or of speed-reading the question hampered their chances. See General Comments above.

Question 4

A significant number of candidates answered this question incorrectly. This was simply down to, a fundamental misreading or speed reading of the question. Many candidates read this as requiring a response which discussed two advantages of ADR over the civil litigation rather than the other way round as required by the question.. A significant number of candidates were able to articulate what they had learnt to provide clear and competent responses for full marks. See General Comments above.

Question 5

Most candidates answered this question correctly. This question was looking for 3 'features' of a tribunal such as a 'legally qualified chair'. However, some candidates took this to require responses looking at tribunal's advantages and disadvantages over civil litigation which was not creditworthy.

Question 6

The two-part link question 6 proved a straight-forward 3 marks for the majority of candidates. Few incorrectly answered 6(a) but a few candidates mistook privately funded to mean publically funded and explained legal aid. If 6(a) was correctly answered this would generally steer candidates into a correct 6(b) response. Although for some stating an actual advantage, for example, 'choice' proved elusive, while explaining a theoretical advantage securing only one of the two possible marks here.

Question 7

This question proved popular with candidates and 3 or full marks were quite common. Candidates are reminded that in such questions specific tasks are required to secure marks - here two lots of 2 – identify and explain. The question required a broad, but not necessarily

detailed, knowledge of this type of legal professional. Centres quite commonly allow guest speakers into class when studying relevant parts of the unit and as a result benefit from such talks.

Question 8

This question provided a key discriminator for candidates. There was a lot of key information in the question, in particular, the issue of ‘case management’ which was crucial for responses in how it achieved Lord Woolf’s aim of civil cases being dealt with ‘justly’. The Woolf Reforms made dramatic changes to the English legal system and this concept remains crucial to the procedure in the civil courts. A thorough look at the mark scheme is recommended to centres and candidates.

Question 9

As this was a gap-fill question many candidates were able to access 4, 5 and full marks. Where candidates did select the wrong responses was in answer 2 and 3 where ‘Convictions’ and ‘Awards’ were mixed up.

Question 10

The three terms used to categorise rights in this question are complicated and, where ‘Qualified rights’ is concerned a particularly tricky term to understand or provide an example. In consequence while most candidates were able to define ‘Absolute rights’ and provide an example the confusion between the other two was apparent. In brief, a ‘Limited right’ is a historically reduced right in permanent form used where necessary e.g. arresting someone thus taking away their right of liberty. A ‘Qualified right’ is a ‘temporary’ interference with a citizen’s right where the government feel it necessary e.g. disallowing a protest march (assembly and association) to prevent a riot.

Question 11

This question discriminated well between candidates with the higher scoring candidates having to think laterally if they were unfamiliar with the area of law in question. As strange as it may seem Article 4 can be restricted for ‘good’ reasons. Again, putting those categories into context in the classroom would enable candidates to understand such a strange concept, but without context or examples candidates will struggle.

Question 12

This type of question will normally look at a controversial and recent topic which has achieved national exposure in the media and/or through candidates’ P.S.H.C.E or similar classes. The question allows an opinion-based response while requiring contextualising with Articles from the European Convention on Human Rights. Assisted suicide provides just such a topic.

Occasionally, in responses there was no direct focus on the Articles, a key requirement of the question, and a more sociology-based explanation was seen.. When Articles were used as a basis of the candidate’s response such answers were very sophisticated and in most cases passionate. There were some excellent answers to this question with candidates crucially demonstrating how they could construct a balanced argument that enabled them to access the higher marks. While a balanced argument is not always necessary it does provide here and in other questions a larger target to hit.

Articles 8 and 9 were again correctly used in the main with the candidates discussing and applying these to the scenario whether to allow, or not assisted suicide. This proved an extremely dialectic topic that allowed candidate discourse to take place accessing many high marks.

B143 Employment rights and responsibilities

General Comments:

The 2016 examination continued to show mixed evidence of candidates being prepared for the various demands of this paper. It is stressed to centres that there are four main topic areas in this Unit: Employment Status, Discrimination, Health and Safety and Termination of Employment which generally form the four separate questions. As well as a broad understanding of these topics, candidates must meet the challenge of this paper in their demonstration of both knowledge and the use of appropriate skills while answering the questions whether they be AO1, 2 or 3 questions. Understanding the requirements of the Assessment Objectives (AOs) is crucial in order to understand how to secure marks.

The main differentiator of ability was seen in the short and longer comprehension type questions worth 3 and 6 marks respectively. Indeed, for some of the topics tested, the AO2 and AO3 type responses continue to require some reflection and practice by candidates. Candidates must note the mark value of such questions. For example, a response that is marked out of 3 requires three separate points of issue. Candidates would again benefit from the P.E.E method of answering questions in, for example in this series, questions 2(d), 4(c) and 4(d).

Candidates are reminded that the whole specification can be covered in the examination and so selective preparation is not advised. In addition topic areas can move around the paper and candidates need to read the questions carefully before they start to write to ensure relevant material is used to answer the questions.

All areas of this year's examination were felt accessible, although questions such as 2(d) and 4(d) required candidates to be clear in their application of relevant law, rather than simply being able to rely on selecting the correct answer. Topic areas where explanation or discussion is possible would be a fertile area for practice as part of a candidate's revision programme. Indeed, previous exam questions provide a multitude of examples and assistance here.

Comments on individual questions:

Question 1

In (a) the majority of candidates were able to identify at least two correct sources. Relatively few candidates were able to identify all three. Examples were allowed where they were clear and specific alternatives to those on the mark scheme.

In (b) a good number of candidates achieved full marks – those who did not appeared to have either read the scenario information incorrectly or been unsure as to exactly which 'Six-Pack' Regulation was being breached – again an important area of knowledge which can be practised using both quiz and application type questions to consolidate knowledge in class.

Question 2

In (a) many candidates scored well, with most scoring 3 or full marks. A small minority of candidates misread the question and instead answered incorrectly along the procedural line where an intent to make an employee redundant is communicated. Credit was not given for a response using 'the use of disciplinary records' since this was the example in the stem of the question. Although if this was the case and the candidate went on to explain this criteria then they would have been awarded the other mark.

In (b) candidates had to select the most appropriate type of dismissal for the given scenarios. As this was a straight-forward identify/explain question those who were able to identify the correct type and able to explain this from the scenario were able to score full marks. While most candidates knew the correct type of dismissal for each scenario some struggled to articulate an explanation which seemed odd given the factual information was contained in the scenario. For example some candidates would in 2(b)(i) correctly identify 'summary dismissal' for 1 mark but then explain it as Dolly had 'done something wrong' (or similar) which was too vague for the second mark. Similarly vague explanations were seen on occasion with 2(b)(ii) and 2(b)(iii). For 2(b)(ii) alternative responses were allowed depending on which explanation the candidate used: wrongful for the short notice period or unfair in connection with Guy's conversation with his union representative.

In (c) it was important to focus on the specific issue of remedies used in tribunals. Again while technical terms are important to know, for example, 'reinstatement', suitable specific alternative definitions/explanations were credited also.

In (d) candidates were given the opportunity to discuss, in their own words, when it is important for an employer to be able to fairly dismiss an employee. As much of this reflects the common-sense, nature of reality faced by many employees, most candidates were able to score 4, 5 or full marks on this question. Those candidates who scored highly were able to explain two situations following the P.E.E method identified above.

Question 3

In (a)(i) the majority of candidates were unable to state the correct Act nor were they able to identify the correct time limit. This is simply a recall question and centres are reminded that while it was never the intention of this qualification to necessarily weigh candidates down memorising the names of Acts of Parliament or case names, this was one of a few Acts that could be discussed regularly in class.

In (b) candidates were given the names of four of the tests of employment and asked to explain them giving an example for each. This was a differentiator question which enabled some candidates to achieve 8 marks; which was regularly seen. Where most candidates were able to explain, many were unable to provide examples which could have prevented them achieving 4 of the 8 marks. Again, it is always suggested that with such topics centres need to contextualise the matter in class so candidates can see how they apply to the real world. For example: 'the control test would show specific tasks set to individuals. This could be things like setting the individual's hours and place of work.'

Responses to (c) showed that nearly all candidates were confident with this area of employment law. The most common incorrect response was for the statement: 'There is no requirement to take holidays at a particular time'. In such cases candidates would say regularly and incorrectly that this was under 'Employed' status.

Question 4

In (a) most candidates were able to correctly state the meaning of victimisation and harassment but a minority were unable to do the same for indirect discrimination confusing this with direct discrimination. Again, practice at contextualising these types of discrimination in class using scenarios or previous B143 exam questions would assist understanding these sometimes complex legal terms.

In (b) many candidates scored full marks and the question appeared to be accessible to most, although 'comparator' and 'comparison' were sometimes confused in candidate responses.

In (c) most candidates were able to score the 3 marks available. Here, the candidate would have to read the question very carefully to establish the 1-2-3 nature of its demands. This question

centred on Protection from Discrimination. The first mark was to be found from the type of discrimination, here religion and belief. The 'discrimination' was not based, as many candidates stated on the grounds of race or racial origin since the question identified Samir as Muslim rather than from a specific geographical region. The second mark required a simple yes or no decision whether he had been discriminated against. This provided a mixed response. Many candidates felt Samir had been discriminated against as he should have been able to take time of work for the specific reasons in the scenario, as and when, he felt. This was incorrect as Samir was not in law discriminated against. Such candidates therefore would generally fail to score a third mark. The third mark could be achieved, for example, if they said the business has a right to refuse if it was detrimental to the company which it was clearly here.

In (d) a wide range of responses were seen. The best answers followed the rubric of the question and considered three separate reasons, generally using the P.E.E method. Here such candidates would begin with the identification of a specific reason as to why we have laws on discrimination. Then go on to consider this reason from the employer's perspective and finally consider the point from the employee's perspective. Some candidates listed reasons without development and so were not able to access the higher mark bands whilst others gave multiple/duplicate examples of the same reason and again these candidates could not access the higher mark bands. The quality of written communication was assessed in this question and so it was important for candidates to show good skills of evaluative writing and spelling, punctuation and grammar to develop and amplify their points.

B144 Consumer rights and responsibilities

General Comments:

The entry for this series demonstrated the full range of ability. There was evidence of an appropriate level of preparation by a range of candidates. In some questions application skills were often demonstrated well. To reach the highest marks it is necessary to fulfil all the demands of the question. In the questions necessitating extended writing, such as 2(b), 2(c), 3(d) and 4(d) there was evidence of some well-structured, articulate and fluent answers using material in a thoughtful and relevant way. It is essential that candidates are able to follow the rubric accurately and there were examples of candidates selecting carefully and demonstrating their skills of analysis and application well, such as 2(b), 2(c) and 4(d). Thorough knowledge of the areas covered by the specification is required to perform well, although there is no requirement for citation of cases or reference to detailed statutory or regulatory provisions. All questions were accessible but there were also some instances where a number of candidates made a limited response; 3(d) and 4(b) being examples of this. It is essential on this paper that candidates read the question carefully; draw attention to the key words in the question to ensure they follow the rubric accurately. This together with an appropriate selective use of material allows for better candidate responses. Previous exam papers remain useful tools for practice and preparation purposes.

Comments on individual questions:

Question No 1

Many candidates were confident in 1(a)(i) in their identification of two other elements necessary to establish a duty of care. Many candidates were also able to provide accurate examples of a negligent situation required for 1(a)(ii). 1b also provided opportunities for candidates to identify from scenarios when a contract had been formed. Many candidates obtained full marks.

Question No 2

This question contained a range of tasks focused on different skills. In 2(a) the rubric required candidates to respond by identifying the correct type of statutory implied term from the Supply of Goods and Services Act 1982 – the majority were successful in identifying the correct answers. In 2(b) there were some excellent answers with the correct implied term being identified as being breached, why it had been breached together with the appropriate remedy. Some candidates did misunderstand the third scenario where in fact the implied term had not been breached which therefore necessitated a different identification and explanation. In 2(c) many candidates were successful in demonstrating their full understanding of the nature of the implied terms. Candidates sometimes did not effectively use suitable examples to illustrate their answers or include one at all and therefore did not obtain full marks.

Question No 3

3(a) and 3(b) saw a range of answers with many candidates obtaining nearly full marks. Answers to parts of 3(c) required candidates, with reference to scenarios, to identify if a defendant was a 'producer', 'importer' or 'own brander' within the terms of the Consumer Protection Act 1987. There were many candidates obtaining full marks for 3(c). The area of uncertainty arose in part 3(c) E however where a few candidates identified 'own brander' as opposed to 'producer'. 3(d) caused the greatest difficulty for many candidates who misread the rubric of the question. Answers were often given in the context of the Sales of Goods Act 1979 rather than the Consumer Protection Act 1987 as required and consequently, many candidates

obtained no marks. Those who did answer with reference to the Consumer Protection Act often obtained full marks.

Question No. 4

This question focused on the issue of exclusion clauses and unfair terms. In 4(a) candidates were required to select three words that were relevant to the Unfair Contracts Terms Act 1977 (UCTA) and a significant number of candidates obtained either 2 or full marks. 4(b) caused some difficulty for candidates who did not recognise that the exclusion clause in the scenario was invalid under UCTA thereby reducing their marks. However, 4(c) saw candidates providing some good examples of where UCTA was different to the Unfair Contracts Terms in Consumer Contracts Regulations 1999 and often obtained at least 2/3 marks. Candidates wrote effectively and extensively in 4(d) and successfully explained how judges had provided protection to consumers from exclusion clauses. There were many examples of candidates obtaining L2 marks with some candidates moving into L3 and obtaining full or nearly full marks. There were some examples where candidates misread the rubric and wrote about statutory protection under the Sale of Goods Act 1979 and/or UCTA which was not required by the question, thereby not obtaining any credit. However, some candidates were also able to use cases and examples to effectively illustrate the points they were making. This question resulted in a range of good answers where candidates demonstrated detailed analysis and evaluation of the question and the skills necessary to access the higher mark bands.

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